

Remarks

General Remarks

The Examiner has completely ignored the claim amendments and the remarks made in the Amendment filed December 12, 2002. The Examiner states in the current Office Action that “Applicant’s arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.” This assertion is respectfully traversed.

In contrast to the Examiner’s assertion, the Amendment filed on December 12, 2002 clearly identifies specific claim language distinguishing over the cited references, individually and combinationally. As an example, the Amendment clearly identifies, on page 9, third paragraph, claim language distinguishing over the cited art. The Amendment states “claims 1 and 11 require releasing a seal and forming a seal or sealably affixing.” The underlined language is taken directly from the rejected claims.

Instead, the Examiner has completely ignored the claim language, the claim amendments and the specific arguments presented, including the specific claim language identified as distinguishing over the cited references. Instead, the Examiner merely repeats the identical rejections are rationale contained in the prior Office Action.

Nevertheless, the present response specifically identifies the exact claim number and claim line where the specifically identified claim language can be found.

Rejections Under 35 USC § 103(a) over Tischer et al in view of Corsini (Office Action ¶ 2)

Claims 1 – 8, 10 – 15, 17 – 33, 35 – 39 and 41 have been rejected under 35 USC § 103(a) as being unpatentable over Tischer et al ‘031 in view of Corsini ‘828.

Cited Art

Tischer et al discloses a firefighting hood and face mask assembly. The hood disclosed by Tischer et al is made of a knitted or woven heat and flame resistant aramid material (column

4, lines 3 – 11). A face mask 26 includes a face plate 54 secured to hood at a plurality of fasteners 62, spaced at intervals along the perimeter of face mask 26 (Figures 3, 12, 13, 17, 21 and 22). Secured at each of these fastening locations to face mask 26 are [face] seal member (for example, 58 in Figures 4 – 11) and hood 24, consisting of inner and outer layers 50, 52. This provides the basic securing structure disclosed in Tischer et al.

To begin with, please note that neither seal member 58 nor hood 24, 50, 52 are secured to face mask 26 at locations around the perimeter of face mask 26 that are intermediate to fasteners 62. Thus, the locations around the perimeter of face mask 26 that are intermediate to fasteners are not secured to either seal member 58 or hood 24. Consequently, face mask 26 is not sealed with either sealing member 58 or hood 24. Tischer et al is concerned with mechanically securing face mask 26 with sealing member 58 and hood 24 but does not provide a seal.

The Examiner's assertion that "Applicant needs to read the reference in its entirety, where then one would appreciate that if the mask was not sealed to the hood in a complete manner then it would not operate to meet it [sic] very purpose/function, to protect the pulmonary system of a firefighter in a smoke filled environment" is respectfully traversed.

First, it should be recognized that the performance of any hood in any environment is a function of degree. A hood usually doesn't either "perform the function" or "not perform the function." Rather, usually any hood will perform the desired function to a degree. This is certainly true with the hood of Tischer et al. It shouldn't even be arguable that the hood of Tischer et al does provide some benefit to the user.

Second, the Examiner has shown by any description in Tischer et al that the hood disclosed in Tischer et al is sealed in the manner alleged by the Examiner. Even by reading the reference in its entirety, such sealing is not disclosed.

Third, the Examiner can not assume elements and features of a reference are there simply because, in the Examiner's opinion, they must be there. The Examiner must point to the disclosure in the reference itself for support for the elements and features alleged. This the Examiner can not do even by reading the reference in its entirety.

Further, note that the firefighting hood and face mask assembly disclosed in Tischer et al is a complete system. The system disclosed in Tischer et al always includes face mask 26 (or an equivalent), [face] sealing member 58 (or an equivalent) and hood 24 (or an equivalent). Thus, the system disclosed in Tischer et al always has a single configuration, although the exact structure of each element varies according to the various embodiments. At no point does Tischer et al show, disclose or suggest converting face mask 26 for use with different types of body seals nor a kit with interchangeable body seals. Both body seals disclosed in Tischer et al are shown used at all times.

Corsini has been cited merely to show a gas delivery conduit.

Method Claims

With respect to method claims 1 – 8 and 10 – 11, these rejections are respectfully traversed. Independent claims 1 and 11 require a method of converting a respirator mask from a first type of body seal to a second type of body seal or from a full facepiece respirator to a hood respirator. There is nothing in Tischer et al nor Corsini that discloses, shows or suggests any such conversion. In contrast, the firefighting hood and face mask assembly disclosed in Tischer et al shows at all times the face mask coupled to both a sealing member and a hood at the same time. Neither does Corsini disclose, show or suggest such a conversion. The Examiner's bald assertion that "one of ordinary skill in the art would appreciate that the method steps claimed ... would naturally flow disclosed ..." simply fails. There is nothing in either Tischer et al or Corsini to suggest such a conversion. It is incumbent upon the Examiner to find art to support the rejected position.

Further, claims 1 and 11 require releasing a seal (see claim 1, line 4, and claim 11, line 4) and forming a seal (see claim 1, line 8) or sealably affixing (see claim 11, line 9). As noted above, the firefighting face mask and hood combination disclosed in Tischer et al are not sealed. Thus, not only does Tischer et al not show the required releasing (see claim 1, line 4, and claim 11, line 4) and forming a seal (see claim 1, line 8) or sealably affixing (see claim 11, line 9) in the conversion but Tischer et al does not show a seal between the perimeter sealing edge face the lens and the lens opening as required by claims 1 and 11.

Thus, the rejection of claims 1 and 11 under 35 USC § 103(a) over Tischer et al in view of Corsini is improper and should be withdrawn.

It is noted that the Examiner makes no further comments regarding the rejections of claims 2 – 8 and 10 – 11 beyond those pertinent to independent claims 1 and 11. Claims 2 – 8 and 10 should also be allowable by being dependent upon allowable independent claim 1 and for the required elements specified in each claim.

Respirator Claims

The rejection of respirator claims 12 – 15 and 17 – 28 are also respectfully traversed.

Independent claims 12 and 21 require “a disengageable coupling between ... the perimeter sealing edge ..., the coupling having a first engaged condition wherein the [lens/mask] is sealably affixed to the shroud ...” (see claim 12, lines 6 – 9, and claim 21, lines 7 – 10) [emphasis added].

Again, as noted above, the firefighting face mask and hood combination disclosed in Tischer et al are not sealed. Neither the seal member nor the hood are secured to the face mask at locations around the perimeter of face mask that are intermediate to fasteners 62. Thus, the locations around the perimeter of the face mask that are intermediate to such fasteners are not secured to either seal member 58 or hood 24. Since these elements are not even secured between fasteners 62, these elements can not be sealed. Consequently, face mask 26 is not sealed with either sealing member 58 or hood 24. Tischer et al is concerned with mechanically securing face mask 26 with sealing member 58 and hood 24 but does not provide a seal.

It is significant for the invention claimed in independent claims 12 and 21 that the disengageable coupling provide a seal between elements. “The seal formed between the face shield component and the body seal is at least effective to prevent contaminant intrusion into the interior of the respirator” (page 5, line 32 to page 6, line 2).

Thus, Tischer et al nor Corsini show, disclose nor suggest the sealing claimed in independent claims 12 and 21 and claims 12 and 21 should be allowable.

Claims 13 – 15, 17 – 20 and 22 – 28 all depend from independent claims 12 and 21, should be allowable by being dependent upon allowable claims 12 and 21 and for the required elements specified in each claim.

Kit Claims

The rejection of kit claims 29 – 33, 35 – 39 and 41, with the amendments made to independent claims 29 and 38, are respectfully traversed.

First, as discussed above, Tischer et al does not disclose, show nor suggest a system in which a seal is defined (see claim 29, lines 2 – 3, “a first type of body seal and a second type of body seal; and claim 38, line 4, “a full facepiece seal”) between the body seal / hood and the lens / mask (claims 29 / 38, respectively) as required by independent claims 29 and 38.

Second, there is nothing in Tischer et al to disclose, show or suggest a respirator kit as presently claimed in which a lens or mask may be selectively coupled to a plurality of body seals or hoods. The firefighting hood and face mask assembly disclosed in Tischer et al is a complete system. The system disclosed in Tischer et al always includes face mask 26 (or an equivalent), [face] sealing member 58 (or an equivalent) and hood 24 (or an equivalent). Thus, the system disclosed in Tischer et al always has a single configuration, although the exact structure of each element varies according to the various embodiments. At no point does Tischer et al show, disclose or suggest converting face mask 26 for use with different types of body seals nor a kit with interchangeable body seals. Both body seals disclosed in Tischer et al are shown used at all times. Both independent claims 29 and 38 now require that the lens / mask be interchangeable with a body seal / hood. This helps distinguish the system disclosed in Tischer et al in which both body seals are present at once.

Thus, neither Tischer et al nor Corsini show, disclose nor suggest the sealing nor the interchangeability claimed in independent claims 29 and 38 and claims 29 and 38 should be allowable.

Further, the claims require a kit (see claim 29, line 1, and claim 38, line 1) requiring a plurality of body seals (see claim 29, line 2). Such a “kit” is not shown or suggested in either

Tischer et al nor Corsini. It should be noted that it is well settled law that all of the language of the claim must be considered when giving patentable weight. This is also true of the preamble. The Examiner can not pick and choose which language of a claim to consider and which language to ignore.

Claims 30 – 33, 35 – 37, 39 and 41 all depend from independent claims 29 and 38, should be allowable by being dependent upon allowable claims 29 and 38 and for the required elements specified in each claim.

Summary

Thus, with the arguments presented and, in some cases, with the amendments made, the rejection of claims 1 – 8, 10 – 15, 17 – 33, 35 – 39 and 41 under 35 USC § 103(a) as being unpatentable over Tischer et al in view of Corsini are improper and should be withdrawn. Claims 1 – 8, 10 – 15, 17 – 33, 35 – 39 and 41 should be allowable.

Rejections Under 35 USC § 103(a) over Tischer et al in view of Corsini & Reeves et al (Office Action ¶ 3)

Claims 9, 16 and 34 have been rejected under 35 USC § 103(a) as being unpatentable over Tischer et al '031 in view of Corsini '828 and Reeves '084.

Tischer et al and Corsini have been discussed above.

Reeves has been cited only for the use of microstructured surfaces and does not affect the arguments made above with respect to the independent claims present in this application.

Claim 9, ultimately depending on allowable independent claim 1, and claim 16, depending on allowable independent claim 12, should now be allowable by being dependent upon an allowable claim and for the required elements specified in each claim.

Claim 34, ultimately depending on allowable independent claim 29, should now be allowable by being dependent upon an allowable claim and for the required element specified in the claim.

Thus, the rejections of claims 9, 16 and 34 under 35 USC § 103(a) over Tischer et al in view of Corsini and further in view of Reeves are improper and should be withdrawn. Claims 9, 16 and 34 should be allowable.

Rejections Under 35 USC § 103(a) over Tischer et al in view of Corsini & Motsinger (Office Action ¶ 4)

Claims 40 has been rejected under 35 USC § 103(a) as being unpatentable over Tischer et al '031 in view of Corsini '828 and Motsinger '758.

Tischer et al and Corsini have been discussed above.

Motsinger has been cited only for the use of a full body suit and does not affect the arguments made above with respect to the independent claims present in this application.

Claim 40, depending on allowable independent claim 38, should now be allowable by being dependent upon an allowable claim and for the required element specified in the claim.

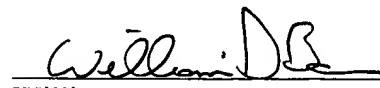
Thus, the rejection of claim 40 under 35 USC § 103(a) over Tischer et al in view of Corsini and further in view of Motsinger is improper and should be withdrawn. Claim 40 should be allowable.

Summary

With the arguments presented, claims 1 – 41 should be allowable, this application should be in condition for allowance and a notice to that effect is earnestly solicited.

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